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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,337	06/01/2001	A. Robert Spitzer	0594.00029	2889

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EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
3751	

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

50

Office Action Summary	Application No.	Applicant(s)
	09/872,337	A. SPITZER
	Examiner Huyen Le	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 March 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: claim 2 repeats of a subject matter that has been shown in claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-3, 5, 6, 9-13 and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison (GB 2229699 A).

The Harrison reference discloses an apparatus for collecting and disposing waste comprising a vessel 7 including side walls and a bottom wall forming an inner surface; and absorption means 5 disposed on entire the inner surface substantially covering the side walls and the bottom wall.

Regarding claim 3, the vessel 7 is further defined as an oval-shaped receptacle as shown in Figs. 2 and 3.

Regarding claims 5, 6, 12 and 13, the absorption means is made of material that absorbs, collects and retains liquid (i.e. urine) is selected from the group consisting artificial and natural fibers, paper materials, sponge, cloth and cotton materials (page 2, lines 4-6, page 7, lines 6-9).

Regarding claims 9, 10 and 16, the apparatus includes attaching means 6 for attaching the absorption means 5 to the inner surface of the vessel 7 which is tape.

Regarding claim 17, the vessel 7 is a reusable bedpan.

Regarding claims 18-20, the method of using the apparatus for collecting liquid is inherently performed during the normal operation of the apparatus.

4. Claims 1-3, 5-8, 11-15, 17-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas (6,070,277).

The Thomas reference discloses an apparatus for collecting and disposing liquids comprising a vessel 12 including side wall 15 and a bottom wall 13 forming an inner surface; and absorption means 17 disposed on entire the inner surface substantially covering the side walls and the bottom wall 13 for absorbing and collecting liquids within the vessel 12 (col. 3, lines 43-46).

Regarding claim 2, the apparatus includes an opening 14.

Regarding claim 3, the vessel 12 is defined as an oval-shaped receptacle as shown in Fig. 1.

Regarding claims 5, 6, 12 and 13, the absorption means 17 is made of a material which absorbs, collects and retains fluid (col. 2, lines 45-46) is cotton (col. 3, lines 60-61).

Regarding claims 7, 8, 14 and 15, the absorption means 17 further includes super-absorbing means which is selected from the group consisting of powders (col. 3, lines 51-59).

Regarding claim 17, the vessel of the present invention is selected from the group of a disposable bedpan which is not distinguishable over the vessel 12 of Thomas which is capable of being used as a disposable bedpan.

Regarding claims 18-20, the method of using the apparatus for collecting liquid is inherently performed during the normal operation of the apparatus.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison (GB 2229699 A).

The Harrison reference discloses an apparatus for collecting and disposing liquid as described above.

Although the Harrison reference is not specific that the vessel 7 is made of materials selected from the group consisting of plastic, polyurethane, metal, glass, and polymer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select a material suitable for making a vessel, since selecting a

known material on the basis of its suitability for the intended use is a mere matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Claims 7, 8, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison (GB 2229699 A) in view of Williams (5,455,972).

The Harrison reference discloses an apparatus for collecting and disposing liquid as described above

Although the Harrison reference does not disclose that the absorption means 5 include a super-absorbing means made of a gelling compound, attention is directed to the William reference which shows a disposable waste bag comprising a pad 22 having a silica gel 23 for increasing liquid absorption capability of the apparatus and preventing it from spillage (col. 2, lines 47-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a silica gel in the absorbing means of the Harrison apparatus in view of the teaching of the William reference for increasing liquid absorption capability of the apparatus and preventing it from spillage.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (6,070,277).

The Thomas reference disclosed an apparatus for collecting and disposing liquids as described above.

However, the Thomas reference is not specific about the vessel being made of plastic or polymers. Waste vessels or bags are commonly made of plastic for sanitary and low-cost purposes.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fabric the Thomas vessel from plastic, since selecting a known material such as plastic or polymers on the basis of its suitability for the intended use is a mere matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

9. Claims 9, 10, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (6,070,277) in view of Stevens (GB 2 224 522) .

The Thomas reference discloses an apparatus for collecting and disposing liquids as described above.

Although the Thomas reference is not specific as to how the absorptive means 17 is connected to the inner surface of the vessel 12 (or bag), attention is directed to the Stevens reference which discloses another apparatus for collecting and disposing liquids comprising an absorptive means 8 and an adhesive for securing the absorptive means 8 to the inner surface of the bag 1 (page 2, line 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an adhesive between the absorptive layer 17 and the inner surface of the Thomas vessel 12 in view of the teaching of the Stevens reference for securing the absorptive layer to the vessel.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Smith, Wheeler and Bostick references show disposable devices for collecting wastes.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7766 for regular communications and 703-308-7766 for After Final communications.

Art Unit: 3751

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

HL

June 12, 2002



DAVID J. WALCZAK
PRIMARY EXAMINER